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Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Dear Chairman Kennard:

RE: Low Power FM (LPFM), MM Docket No. 99-25

I write in opposition to the letter of Edward O. Fritts, President of the National Association of Broadcasters ("NAB") seeking a further, 60-day extension of time to comment in the LPFM proceeding.

The NAB has had plenty of time to obtain the Commission's database. It has had more than sufficient time and resources to file its FOIA request and perform its technical studies. Yet Mr. Fritts' letter contains nothing to show that the NAB has acted diligently, or to explain with specificity why any more time is really needed.

Sometimes an issue is so critical to a decision in a rulemaking that a lengthy extension of time to study that issue is warranted. Mr. Fritts' letter does not present such a case. Waiver of second and third adjacent channel interference protections for LPFM will largely affect only fringe areas that broadcasters are not licensed to serve anyway. And while inclusion of LPFM in an IBOC plan is a genuine issue, digital proponents recognize that technological know-how will resolve it. 1/

1/ Norman Miller, President of Digital Radio

Express, has stated that LPFM's impact on digital radio "must be investigated thoroughly and acceptable guidelines developed before low-power licenses are granted." He adds, however, that "[l]ow power can probably be made acceptable. There will be some interference, but with proper design these effects can be minimized. Fundamental physics can't be denied." B. McConnell, "Low-power FM radio dispute," Broadcasting & Cable, April 18, 1999, at 38.

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May 6, 1999

For years, as the Commission waived or grandfathered third, second and even first adjacent separation rules for full power stations, the NAB was silent. Thus, the NAB's sudden interest in these rules disguises the NAB's real interest -- inhibiting competition from new entrants. 2/

It is especially critical that the NAB's studies be complete, well designed, accessible and fair. 3/ Microradio proponents do not possess the resources to perform extensive engineering studies. We will have to rely on analysis of the studies performed by the NAB, an implacable microradio opponent.

An extension of time will not add much useful information to the record. The NAB does not state that it expects that LPFM would have any significant impact on the quality of coverage within 70 and 60 dbu contours. Listeners in fringe areas have no expectation of service from distant stations, and their listenership can seldom be sold to advertisers anyway.

We look forward to reviewing the NAB's research on receiver selectivity. But even here, the NAB's methodology appears deficient. Mr. Fritts states that the NAB is examining only currently available receivers. Yet by the time LPFM is implemented, a new generation of receivers will be widely available. Indeed, one of the NAB's proposals -- expanding the upper limits of the FM band -- would stimulate production of another generation of receivers. 4/

2/ This morning's Inside Radio reports on an NAB memo to its members which tells broadcasters not to tell their legislators that "the reason your (sic) against micro radio is because it will hurt you financially. This is not a strong argument -- THEY DON'T CARE." Instead, the memo tells NAB members to tell legislators, inter alia, that microradio is "an inefficient use of the spectrum."

3/ MMTC often reports research findings that undermine our initial assumptions and predictions. See, e.g., MMTC, "FCC EEO Forfeitures, 1990-1996" (August 26, 1996), filed in the 1996 EEO Streamlining proceeding (MM Docket 96-16) (finding, to our surprise, that the Commission's forfeiture policies had been applied evenhandedly and fairly.) We trust that the NAB will report all of its research findings, irrespective of where they lead.

4/ A virtual LPFM ghetto, confined within 1/81 of the band, is hardly a reasonable alternative to the Commission's LPFM proposal. New entrants, racial and language minorities, women, labor unions, schools and churches and community organizations -- everyone inadequately served by our current system of broadcasting -- would largely be penned into one frequency. This disturbing proposal speaks poorly of the quality of the NAB's anticipated submission.

MMTC recognizes that not every extension of time request is intended merely to delay a proceeding for political gain. 5/ But the NAB's showing of good cause could not be more vague and unspecific. Furthermore, most of the relevant issues in this proceeding will not be addressed by the NAB's research. There is no need to delay adjudication of those issues.

Consequently, the Commission should deny the NAB's request. Instead, it should invite any party in possession of useful engineering studies to submit them late with a motion for leave.

Respectfully submitted,



David Earl Honig
Executive Director

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cc: Hon. Susan Ness
Hon. Harold Furchtgott-Roth
Hon. Michael Powell
Hon. Gloria Tristani
Roy Stewart, Esq.
Dr. Dale Hatfield
Edward O. Fritts

5/ For example, MMTC supported an NAB request this January for additional time in the EEO proceeding, MM Docket No. 98-204. We simply did not possess the resources to file on behalf of 30 organizations within that time.